

CHAIR
Wm. T. Robinson III
wrobinson@fblaw.com

Robert N. Weiner, Board of Governors Liaison

Michael A. Beckle

Donald R. Dunner

Thomas A. Forbes

H. Russell Frisby, Jr.

Rosemary E. Giuliano

Martin E. Lybecker

Richard M. Macias

Laura A. Miller

Janice F. Mulligan

Pauline A. Schneider

ABA DAY IN WASHINGTON
PLANNING COMMITTEELaurel G. Bellows, Chair
lbellows@bellowspsc.com

December 14, 2009

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
433 Senate Russell Building
Washington, DC 20510

Dear Chairman Leahy:

We understand that the Committee will soon consider S. 678, the Juvenile Justice and Delinquency Prevention Reauthorization Act of 2009. I write on behalf of the American Bar Association (ABA) with almost 400,000 members nationwide, to express our strong support for S. 678 and to urge the Committee to act promptly to approve it. We also urge you to reject amendments that are inconsistent with the long-standing purposes of the Act.

S. 678 will reauthorize critical components of the Juvenile Justice Delinquency and Prevention Act (JJDP), which has been protecting youth across the nation for over 30 years. S. 678 reflects the careful and extensive consideration of JJDP reauthorization by the Committee in the previous Congress, resulting in Committee approval of a bill that is substantially similar to S. 678. S. 678 makes meaningful improvements that expand several of the core protections and other areas contained in the bill.

Core Protections:

- **Strengthens the deinstitutionalization of status offenders (DSO) core protection:** Under current law, non-delinquent status offenders, such as children who are truant or runaway or who violate curfew, alcohol and tobacco laws, may be held in juvenile lock-ups under the Valid Court Order (VCO) exception, that allows judges to issue detention orders. The practice persists despite evidence that detaining status offenders in overcrowded juvenile detention centers with delinquent youth is costly, especially compared to more effective responses including family-focused, school, and home-based interventions. S. 678 requires that states eliminate the use of the (VCO) within three years, but allows states to apply for one-year hardship extensions through the Office of Juvenile Justice and Delinquency Prevention (OJJDP). In the three-year window before elimination, S. 678 provides extra safeguards for status offenders in locked facilities, limiting to seven days the time a youth can be held in a facility under a VCO and requiring judges to

GOVERNMENTAL AFFAIRS OFFICE

DIRECTOR

Thomas M. Susman
(202) 662-1765
susmant@staff.abanet.org

DEPUTY DIRECTOR

Denise A. Cardman
cardmand@staff.abanet.org

SENIOR LEGISLATIVE COUNSEL

R. Larson Frisby
frisbyr@staff.abanet.org

Lillian B. Gaskin

gaskinl@staff.abanet.org

LEGISLATIVE COUNSEL

Ann Carmichael
carmicha@staff.abanet.org

Kristi Gaines

gainesk@staff.abanet.org

Kirra L. Jarratt

jarratk@staff.abanet.org

E. Bruce Nicholson

nicholsonb@staff.abanet.org

LEGISLATIVE COUNSEL/DIRECTOR

GRASSROOTS OPERATIONS

Julie M. Strandlie

jstrandlie@staff.abanet.org

LEGISLATIVE COUNSEL/
DIRECTOR OF STATE LEGISLATION

Kenneth J. Goldsmith

goldsmithk@staff.abanet.org

INTELLECTUAL PROPERTY

LAW CONSULTANT

Hayden Gregory

gregoryh@staff.abanet.org

LEGISLATIVE COORDINATOR

Jared D. Hess

hessj@staff.abanet.org

make certain procedural findings before a youth is held under the VCO.

- Strengthens the Disproportionate Minority Contact (DMC) core protection: S. 678 gives guidance to states on complying with the DMC core protection by listing specific steps toward reducing DMC, including identifying and analyzing key decision points to determine where disparities exist, collecting data, developing a work plan, and publicly reporting on efforts.
- Improves the Jail Removal and Sight and Sound core protection: For the first time, S. 678 expands the jail removal and sight and sound core protections to youth who are charged with adult crimes. Currently, any youth charged with adult crimes would be sent to an adult jail or lock-up while awaiting trial. By allowing youth charged with adult crimes to be held in juvenile facilities, S. 678 takes a significant step towards responding to recent research showing that that youth in adult facilities are at a great risk of assault, abuse, and suicide and that youth in the adult criminal justice system are at an increased risk of re-offending. While our ultimate goal is to remove these youth from adult facilities completely, S. 678 takes a good step in this direction, and we look forward to further strengthening this section of the bill.
- Allows States to continue to place youth convicted in adult court in juvenile facilities without jeopardizing federal funding: S. 678 would permit many states to continue allowing youth convicted in adult court to serve their sentence in juvenile facilities until they reach the extended juvenile jurisdiction age. This reverses current law, which would penalize states that utilize more appropriate and humane placements for youth.

Overall juvenile justice system improvements:

- Improves conditions of confinement in juvenile facilities: S. 678 takes steps to improve conditions in juvenile facilities through elimination of dangerous practices, annual state reporting on the use of isolation and restraints, and providing training to facility staff to support elimination of dangerous practices.
- Provides comprehensive support for youth throughout the juvenile justice system: S. 678 promotes alternatives to detention, improves assessments and treatments for mental health and substance abuse, enhances child welfare and juvenile justice integration, supports effective assistance of counsel, and improves case management and transitional care for youth upon re-entry.

Support for States:

- Increases states' ability to comply with the core requirements: S. 678 would provide support to states to comply with the core requirements, including ensuring states will get technical assistance to comply. In addition, for states not in compliance, S. 678 would allow JJDP funds that would have been withheld to be used by the states as improvement grants to regain compliance in that specific area.

- Expands the role of OJJDP: S. 678 contains language that will encourage OJJDP to provide an expanded role in working with the states by providing research, technical assistance, and training in the field.

Finally, we urge the Committee to vote against (1) amendments to weaken the core requirements in the bill or (2) unrelated or punitive amendments such as amendments to increase the number of youth tried as adults or to remove a judge's discretion to determine whether to prosecute a youth in adult court. Research shows that youths transferred to the adult criminal justice system are more likely to commit crimes in the future when compared to youth who commit similar crimes, but are retained in the juvenile justice system. Such an amendment would directly contradict the goals and purposes of the Juvenile Justice and Delinquency Prevention Act. If such punitive and counter-productive amendments are added, we urge you to oppose the bill since these amendments would undermine the overall goals of the bill and run counter to research and evidence-based policies on which the current provisions of S. 678 are based.

In light of the valuable elements of the bill, as described above, we strongly support S. 678 and urge the Committee to approve this legislation promptly so that it may soon be considered by the full Senate.

Sincerely,



Carolyn B. Lamm

cc: Members of the Judiciary Committee